



Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF.
Tel. No: 01268 882200
Fax No: 01268 882455



David Marchant LLB (Hons) BSc (Hons) CEng FICE FCI
Chief Executive

AGENDA

Committee: DEVELOPMENT CONTROL

Date and Time: Tuesday 1st May 2018 at 7.30 p.m.

Venue: Council Chamber

N.B. This meeting will be webcast live on the internet.

Membership: Councillors Hart (Chairman), Smith (Vice Chairman), Acott, Anderson, Bayley, Blackwell, Cole, Mrs King, Mumford, Sharp, Taylor, Varker and Walter.

Substitutes: Councillors Ladzrie, Palmer, Mrs Sach and Mrs Wass

Canvey Island Town Councillors : Greig and Tucker

Officers attending: Kim Fisher-Bright – Strategic Developments Officer
Rob Davis - Planning Development and Enforcement Manager
Fiona Wilson – Head of Legal Services

Enquiries: Cheryl Salmon, ext. 2454

PART I (Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

A copy of the Minutes of the meeting held on 3rd April 2018 is attached.

4. Public Speakers

The Chairman will announce the names of those persons who wish to speak in support /objection under Agenda Item No. 5 (if any).

5. Deposited Plans

The reports are attached.

	Application No	Address	Page No
1.	18/0086/FUL	Hadleigh Park, Chapel Lane, Hadleigh, Benfleet, Essex (St James' Ward)	1

Agendas and Minutes can be viewed at www.castlepoint.gov.uk
Copies are available in larger print & audio format upon request
If you would like a copy of this agenda in another language or alternative format:
Phone: 0207 520 1431 or email translations@languageline.co.uk

DEVELOPMENT CONTROL COMMITTEE

TUESDAY 3RD APRIL 2018

PRESENT: Councillors Hart (Chairman), Acott, Anderson, Bayley, Blackwell, Cole, Mrs King, Ladzrie*, Mumford, Sharp, Taylor, Varker, Walter and Canvey Island Town Councillor Greig.

Substitute Members Present: Councillor Ladzrie* for Councillor Smith.

Also Present: Councillors Palmer, Riley and Mrs Sach.

Apologies for absence were received from Councillor Smith.

25. MEMBERS' INTERESTS

Councillor Cole disclosed a non-pecuniary interest in Minute No. 21(e) as his nephews played football and his brother managed a children's team on the site he remained in the Chamber during discussion of the item.

26. MINUTES

The Minutes of the meeting held on 9th January 2018 were taken as read and signed as correct.

27. DEPOSITED PLANS

- (a) **17/0831/FUL – 19-27 KENTS HILL ROAD, BENFLEET, SS7 5PN (ST MARY'S WARD) – DEMOLITION OF EXISTING BUILDINGS AND HARDSTANDING AND CONSTRUCT TWO BUILDINGS COMPRISING OF 23 NO. SHELTERED HOUSING UNITS AND 1 NO. GUEST UNIT, IMPROVED ACCESS FROM KENTS HILL ROAD, ASSOCIATED OFF-STREET CAR PARKING, LANDSCAPING AND OTHER ASSOCIATED DEVELOPMENT – RENOWN DEVELOPMENTS**

The proposal represented the redevelopment of an urban brownfield site, allocated for shopping purposes in the adopted Local Plan, for residential purposes. Re-use of the land for residential purposes was consistent with the provisions of the NPPF and in principle was considered acceptable on the site.

Whilst the scheme exhibited some deficiencies when assessed against the adopted policies and guidance of the Planning Authority, none, were considered so significant as to provide a robust reason for refusal.

The Scheme attracted the need for assessment with regard to the payment of an off-site contribution towards the provision of Affordable Housing. It was reported

that initial statements from the applicant in this regard suggested that the Scheme would be rendered unviable by the need to make such a contribution and none was therefore offered. The applicant had submitted a viability study to demonstrate the lack of capacity for a financial contribution and this was currently being analysed in detail however, in order to limit delay in bringing the scheme forward, Members were asked to consider the principle and design details of the scheme at this time.

During discussion some Members raised concern regarding the limited isolation space the design provided and the refuse and recycling arrangements. The Planning Officer explained that due to the site's location and in view of government guidance it was not considered that the limited levels of isolation space would result in damage to the character and appearance of the wider area. There were refuse and recycling facilities on site which would be managed by the resident warden and the access road to the site could accommodate a refuse vehicle.

Other Members were supportive of the design and felt it was a good use of the site however were concerned about the applicant's comments that a contribution towards off-site affordable housing was not financially viable. The Planning Officer stated that if minded to resolve to grant consent for the scheme this would be subject to the applicant making an appropriate contribution, towards affordable housing, the level of which would be determined following further analysis and negotiation.

Following detailed discussion it was:-

Resolved - That the application be approved subject to the applicant entering into a satisfactory S106 agreement to secure the provision of an appropriate contribution towards off-site affordable housing and the conditions as set out in the Planning Officer's report.

(b) 18/0061/FULCLC – GARAGE SITE CHURCH CLOSE - CANVEY ISLAND, ESSEX, SS8 9HX (CANVEY ISLAND CENTRAL WARD) – DEMOLITION OF 28 GARAGES AND CONSTRUCTION OF 4 NO. HOUSES – CASTLE POINT BOROUGH COUNCIL

(Councillor Mrs King left the Chamber during the discussion of this item and did not return to the meeting)

The application sought permission for the redevelopment of a block of garages with four new council houses. On balance it was felt that the benefits of the scheme would outweigh the disadvantages, and it was recommended that planning permission be granted. The application was presented to the Committee because the land was council-owned.

Mrs Dunford, a local resident, spoke in objection to the application.

In response to comments made by Mrs Dunford the Planning Officer stated that whilst works were undertaken temporary fencing could be placed around the site to replace the garage walls which currently acted as a barrier to prevent access to residents' gardens.

During debate, whilst the principle of housing on the site as opposed to garages was generally supported some Members felt that the proposal would result in overdevelopment of the site.

A Member questioned who owned the private road and details of the right of way over the site as he was concerned that access to the site could be restricted in the future preventing access to the new properties.

The Committee also raised concerns regarding parking, the narrow width of the road particularly in regard to access for emergency vehicles, insufficient street lighting in the road and the impact the development would have on flooding in the area and requested further details on how this would be mitigated by attenuation tanks.

In response to the comments the Planning Officer reported that emergency access to the current properties was not frustrated and therefore there was no evidence to suggest it would be an issue in regard to the new development. Street Lighting was a matter for Essex County Council. If planning permission for the development was granted a condition would need to be imposed to require the submission and approval of a surface water drainage strategy.

Following detailed discussion the Committee felt that it was unable to reach a decision on the application until the ownership and details of the right of way over the road had been established. It was suggested that a decision on the proposal should be deferred so that further discussion could take place with the applicant regarding this matter and to raise Members concerns regarding the narrow width of the road and the surface water drainage.

It was therefore:

Resolved - That the application be deferred to establish the ownership of the private access road and details of the rights of way over it and to obtain further information regarding the surface water drainage system for the site.

(c) 18/0076/FULCLO – FOOTBALL PITCH R/O WATERSIDE FARM SPORTS CENTRE, SOMNES AVENUE, CANVEY ISLAND, ESSEX (CANVEY ISLAND WEST WARD) – GREEN PAINTED CONTAINER PROVIDING FIRST AID TRAINING AND FACILITIES, COACHING AREA AND CLASSROOM – MR PAUL SMITH

The application sought permission for a container to provide additional facilities for Canvey Island Youth Football Club. Although the site was allocated as

Green Belt in the Council's adopted Local Plan the proposal was felt to be acceptable and recommended for approval.

The application was presented to the Committee for consideration as the Council was the landowner.

During discussion Members generally expressed their support for the proposal. A Member stated that there were too many containers on the site and felt that greater screening should be provided by planting trees in front of the containers.

Following discussion it was:

Resolved - That the application be approved subject to the conditions as set out in the Planning Officer's report.

- (d) **18/0140/FUL – 33 ST MARY'S DRIVE BENFLEET, ESSEX, SS7 1LB (BOYCE WARD) – SINGLE STOREY SIDE EXTENSION, FRONT/SIDE EXTENSION WITH GARAGE BELOW, BALCONY TO FRONT AND BALUSTRADE – MR AND MRS J WADESON**

(Councillor Sharp left the Chamber during discussion of this item and did not return for the remainder of the meeting)

The applicant sought planning permission for the construction of a single storey side extension, front/side extension with garage below, balcony to front and front balustrade. There were no planning objections to the proposal and it was therefore recommended that permission granted.

The application was presented to the Committee because the applicant was a Council employee.

During discussion Members expressed their support for the proposal. It was therefore:

Resolved - That the application be approved subject to the conditions as set out in the Planning Officer's report.

Chairman

ITEM 1

Application Number:	18/0086/FUL
Address:	Hadleigh Park Chapel Lane Hadleigh Benfleet Essex (St. James' Ward)
Description of Development:	Erection of log cabin storage shed bin store 1.8m high fencing and entrance gate for nursery school use
Applicant:	Little Wild Tribe
Case Officer	Mrs Kim Fisher-Bright
Expiry Date	27.04.2018

Summary

The proposal seeks consent for the provision of a day-nursery/pre-school facility within a new building to be provided within the confines of the Hadleigh Castle Country Park.

Prima facie, the proposed development is inconsistent with the presumption against inappropriate development in the Green Belt, however, it is considered that the provision of a 'forest kindergarten' as proposed, will, if appropriately controlled, complement the built facilities present on the wider site and would be consistent with the Government's encouragement of Planning Authorities to plan positively to enhance the beneficial use of the Green Belt and provide access to high quality open spaces and opportunities for sport and recreation in order to make a contribution to the health and well-being of communities as well as enhancing the range of educational opportunities available.

It is considered that this range of factors represent the very special circumstances required to outweigh the identified harm to the openness of the Green Belt.

No objection is therefore raised to the principle of the proposed development in the context of Green Belt or recreational policies.

Subject to the imposition of appropriate conditions the proposal is considered unlikely to have a significant adverse impact on amenity, landscape or the ecological quality of the surrounding area or the setting of any adjoining Heritage Assets, although the imposition of a condition requiring a watching brief is considered appropriate and adequate to ensure the protection of any unknown archaeological deposits below the site.

My recommendation is therefore **APPROVAL** subject to appropriate conditions.

This application is presented to the Committee as it represents a departure from the development Plan.

The Proposal

The proposal seeks consent for the provision of a day-nursery/pre-school facility within a new building to be provided within the confines of the Hadleigh Castle Country Park. The facility will be based on the Scandinavian 'forest-kindergarten' model.

A forest kindergarten can be described as a kindergarten "without a ceiling or walls". The daycare staff and children aged between 2 and 5 would primarily spend their time outdoors. Children between the ages of 0 and 2 would spend the majority of the time within the proposed building, with access provided to the outdoors.

A distinctive feature of forest kindergartens is the emphasis on play with toys that are fashioned out of objects that can be found in nature, rather than commercial toys. Despite these differences, forest kindergartens are meant to fulfill the same basic purpose as other nurseries, namely, to care for, stimulate, and educate young children.

The proposal has been prepared with the co-operation and support of 'Active Essex', a publicly funded organisation, hosted by Essex County Council, the aim of which is to make sport and physical activity accessible to all Essex residents, in order to reduce inactivity and improve health and well-being. These aims are consistent with the priorities of Sport England, NHS England and Public Health England.

The project appears to sit well with the known Essex County Council objective of diversifying use of the Park to encourage greater recreational and educational use.

In detail the proposal seeks to provide a wooden cabin on land located on the northern edge of the Park, immediately to the south and south-west of dwellings on Benfleet Road and Lynton Road. To further locate the site, it is situated to the west of the Iron Age Roundhouse and north of the Car Park serving the mountain bike facilities.

The Application Site

The proposal site is irregular in form and would have a maximum width of some 95m and a maximum depth of some 45m. The applicants indicate the site would have an area of some 2842m².

At the present time the proposal site comprises an area of hardstanding formerly used as a coach/car park, in the north-eastern quarter with the remainder of the site being grassed with trees and hedges defining the boundaries. Part of the site would include an existing memorial garden which would be enhanced to provide a sensory garden for the children.

It is proposed to locate a wooden cabin and a storage shed on the hardsurfaced area, to supplement the boundary vegetation with some 75m of 1.8m high fencing and to refurbish and enhance the existing toilet facilities present on the site, in phases, to meet the needs of not only the preschool but the public.

The proposed cabin would sit on the surface of the site and would be finished in Nordic Pine spruce with a green shingle roof. It would have a length of some 15m, a width of 5.95m and a height of some 3.2m.

A storage shed would also sit on the surface of the site and it too would be constructed of Nordic Pine spruce with a green shingle roof. This building would be 2.7m wide and 1.6m deep with a height of some 1.9m. Both buildings would be located close the northern boundary of the site.

Bin storage is identified within the car park serving the site. The structure would be located close to the access to the proposed nursery building and would be of wooden construction, similar to

the other proposed buildings on the site, this structure would be roofed and have a maximum width of some 3.75m, a depth of approximately 0.95m and a height of 1.2m.

Five car parking spaces, including one disabled space is to be provided on an area of the site to the west of the proposed buildings. These would be served by the existing internal access road serving this site. The applicants also identify a large area adjacent to the site as a parent 'drop off and pick up' point.

Vehicular access to the site is proposed along an existing access road within the Hadleigh Country Park site.

Supplementary Documentation

The application was accompanied by the following supplementary documentation, all of which may be viewed on the Council's website:

- Ecology and Landscape Statement
- Parking Provisions for Little Wild Tribe Nursery at Hadleigh Park
- Parking Provision Statement
- Security, Refuse and Advertising Statement
- Utilities and Drainage Statement
- Hadleigh Park and Little Wild Tribe DRAFT Terms of partnership
- Active Essex Memorandum of Understanding.

Site Visit

It is not considered necessary for Members to visit the site prior to determination the application.

Relevant Planning History

The site, as part of the wider landscape, has significant history, none of which is of direct relevance to the current scheme.

It should however be noted that the proposal site forms part of the application site for the Olympic Legacy Project which provided permanent recreational trail facilities, a visitor centre, replacement business units and associated infrastructure and facilities.

It should further be noted that the current proposal was the subject of a request for pre-application advice in January 2018.

Local Plan Designations

The site is located within the Green Belt and in close proximity to the Southend and Benfleet Marshes SSSI, Special Protection Area (SPA) and Ramsar site, the Hadleigh Marshes Special Landscape Area. The site is also in close proximity of Local Wildlife Sites (LoWS) CPT22 (Nine Acre Wood) and CPT25 (Castle Farm).

A number of Scheduled Ancient Monuments and Listed Buildings are also located on close proximity to the site.

Relevant Policy and Guidance

The following policies and Guidance is of relevance in the consideration of the proposal:

National Planning Policy Framework (NPPF)

Paragraphs: 7, 11, 12, 13, 14, 17, 56, 69, 72, 73, 79, 81, 87, 88, 89, 103, 109, 118, 128, 132, 186, 187.

National Planning Practice Guidance

Provisions in respect of:

- Light pollution
- Landscape
- Biodiversity and ecosystems
- Noise
- Flood risk.

Adopted Local Plan

Policy EC13 Protection of Wildlife and Their Habitats

Policy EC14 Creation of New Wildlife Habitats

Policy EC16 Protection of Landscape

Policy EC17 Special Landscape Area

Policy EC22 Retention of Trees, Woodlands and Hedgerows

Policy EC23 Tree and Shrub Planting

Policy EC34 Setting of Listed Building

Policy EC38 Archaeological Sites and Monuments.

Policy CF3 Pre School childcare facilities.

Policy RE8 Hadleigh Castle Country Park

Other Documents:

Green Belt Landscape Assessment for Castle Point Borough Council (2010).

Parking Standards – Design and Good Practice (September 2009).

CONSULTATIONS:

Essex County Council (Highways)

No response

Essex County Council – (Planning)

No response

Natural England

No comment

Essex Wildlife Trust

No response

CPBC Legal Services

Proposal does not affect Council owned land. No objection

Historic England

No response

Southend on Sea Borough Council

No response

Neighbour Notification

The site is remote from adjoining residential development and no local residents were therefore consulted; however Site Notices were posted on the site and a Press Notice was published on the 9th March 2018.

No response was received to this publicity.

Evaluation

In evaluating the proposal consideration will be given, inter alia, to the acceptability of the principle of the proposed development, impact on the natural landscape, impact on ecology, impact on the historic environment, impact on amenity and flood risk and the adequacy of car parking provision and accessibility.

(i) The acceptability of the principle of the proposed development

To the extent that Development Plan policies are material to an application for planning permission, the decision on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004).

The National Planning Policy Framework (NPPF) stresses the importance of having a planning system that is genuinely plan-led. Where a proposal accords with an up-to-date development plan it should be approved without delay, as required by the presumption in favour of sustainable development at paragraph 14 of the National Planning Policy Framework.

Where the Development Plan is absent, silent or the relevant policies are out of date, the NPPF requires the application to be determined in accordance with the presumption in favour of sustainable development unless otherwise specified.

Footnote 9 to the NPPF however identifies that land allocated for Green Belt purposes represents an example where development should be restricted. The footnote does not however state that development in such areas is prohibited.

The Development Plan for Castle Point is the adopted Local Plan (1998). This identifies the site as Green Belt.

The NPPF states that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of Green Belts are their openness and their permanence.

Within the Green Belt there is a general presumption against inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Guidance makes it clear that the local planning authority should regard the construction of new buildings, with limited exception, as inappropriate in the Green Belt.

The provision of educational facilities is not identified as appropriate development in the Green Belt and consequently the proposed pre-school may be considered inappropriate development which, *prima facie*, should attract a recommendation of refusal.

Before determining any application however, the Planning Authority must consider whether there are any very special circumstances which might outweigh the harm of the proposed development to the Green Belt.

It might be noted that the proposal site is located within an area which already demonstrates a number of utilitarian buildings such as a public toilet and the Park Rangers Office and is to be provided on an area of land which already exhibits development in the form of a hard surface. The proposal therefore represents the redevelopment of previously developed land.

Paragraph 89 of the NPPF states that development need not be inappropriate if it comprises the limited infilling or the partial or complete redevelopment of previously developed land, provided it did not have a greater impact on the openness of the Green Belt.

A conclusion as to whether the proposal would have a greater impact on the openness of the Green Belt must then be drawn.

It is self-evident that the provision of a building on this site would remove the open aspect of this area of land and as such the proposal would have a greater impact on the openness of the Green Belt than the development it seeks to replace (the hardstanding). This loss of openness is a factor which attracts significant weight against the proposal.

However, it is considered that Para 81 of the NPPF provides some support for the proposal. This paragraph states that once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access and outdoor sport and recreation and to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.

It may be argued that the provision of a kindergarten at this location would offer the opportunity for children to access the Green Belt, as presented within the adjoining Country Park, and opportunity for sport and recreation. This carries weight in favour of the proposal.

In addition, whilst of lesser weight, the scheme offers the opportunity to enhance a currently unattractive area of the Country Park and bring it into a valuable community –based use.

Furthermore, the proposal seeks to instil at an early age, the benefits of increased levels of activity and positive attitudes towards health and well-being and the natural environment, which is consistent with the provisions of paragraphs 69 of the NPPF and the Government's healthy living strategies. This carries some weight in favour of the proposal.

In addition, the provision a forest kindergarten would be consistent with the Government's aim of securing a wide choice in educational experience, as set out in paragraph 72 of the NPPF. This carries some weight in favour of the proposal.

In balancing the opposing elements of the scheme, it is considered that the provision of a 'forest kindergarten' will, if appropriately controlled, complement the built facilities present on the wider site, associated with the Mountain Bike trails and would be consistent with the Governments encouragement of Planning Authorities to plan positively to enhance the beneficial use of the Green Belt and provide access to high quality open spaces and opportunities for sport and recreation in order to make a contribution to the health and well-being of communities as well as enhancing the range of educational opportunities available.

It is considered that this range of factors is of sufficient weight to outweigh the identified harm to the Green Belt.

It should be noted however that the same conclusion may not be capable of being drawn should use of the site for educational purposes be intensified by the introduction of further units or ancillary and associated plant and equipment.

Under the currently proposed circumstances however no objection is raised the proposal on the basis of Green Belt policy.

(ii) The impact upon the appearance of the landscape

Policy EC16 of the adopted Local Plan states:

Development which would have a significant adverse visual impact on the surrounding landscape will not be permitted. When assessing the impact of a development the council will have regard to:

- (i) the prominence of the development in terms of its scale, siting and external materials; and
- (ii) the visual relationship of the development to the open countryside.

Planning permission for potentially obtrusive development upon ridgelines or prominent hillsides will be refused.

Policy EC17 addresses the Special Landscape Area of Hadleigh Marshes, the extent of which terminates to the south-west of the site. It states that development within this area will be refused unless its location, siting, design, materials and landscaping accord with the character and appearance of the area in which the development is proposed.

The Castle Point Green Belt Landscape Assessment (September 2010) identifies the area of the Country Park (Site 14), including the proposal site as being of high visual sensitivity, with the wider site being visible across a wide area. As a consequence of the visibility of the site, it concludes that it would not be possible to mitigate the impact of development in the area.

It must be remembered however that this report was written in 2010, prior to the development of a significant proportion of the site as an Olympic standard Mountain Bike Track and the subsequent provision of a variety of other buildings and uses designed to maintain the legacy of the Olympic

provision. Despite the stated high visibility and sensitivity of the site, it has demonstrated itself to be capable of assimilating development without significant adverse impact on the wider landscape.

The proposed development represents a further small incursion into the landscape, however, the limited scale of development and the screening currently available to the site, together with the opportunities provided for additional screening strongly suggests that the impact of the development currently proposed would not have a significant adverse impact on the character and appearance of the landscape.

It should be noted that whilst the proposal site does not fall within an area identified as a Living Landscape by the Essex Wildlife Trust, the use of the land as a kindergarten would be capable of achieving consistency with the objectives for such landscapes by creating the opportunity for appropriate management of, and direct interaction with, the natural environment.

No objection is therefore raised to the proposal on the basis of its impact on the landscape.

(iii) The impact upon wildlife and habitat

The site is located adjacent to the Benfleet and Southend Marshes SSSI, Ramsar and Special Protection Area and Local Wildlife Sites (LoWS), CPT22 (Nine Acre Wood) and CPT25 (Castle Farm) as identified within the Castle Point Borough Local Wildlife Sites Review 2012. The site is therefore considered to represent a potentially important wildlife habitat.

There are a number of provisions contained within the Adopted Local Plan and in the NPPF that would need to be considered in the determination of any application.

Policy EC7 of the Adopted Local Plan is concerned with natural and semi-natural features in urban areas and states that such features and open spaces within urban areas shall be retained and enhanced wherever possible in order to safeguard their physical, visual, recreational and wildlife value.

Policy EC13 states that the Council will refuse development which is prejudicial to the interests of all wildlife and the retention and management of important habitats.

Policy EC14 encourages proposals to promote the creation of new wildlife habitats. It further states that the Council will take into account the potential for the creation of wildlife habitats, particularly where these would enhance and complement existing elements of nature conservation on adjoining land.

With the exception of Policy EC13, these policies are considered consistent with the NPPF, particularly in respect of paragraphs 109 and 118. In respect of Policy EC13 it is considered more expedient to consider the proposal in the context of paragraphs 109, 118 and 119 of the NPPF.

Paragraph 109 of the NPPF states:

“The planning system should contribute to and enhance the natural and local environment by:

- o protecting and enhancing valued landscapes, geological conservation interests and soils;

- o recognising the wider benefits of ecosystem services;
- o minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures".

In paragraph 118 it states:

"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- o if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- o proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;
- o development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
- o opportunities to incorporate biodiversity in and around developments should be encouraged;
- o planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss".

Paragraph 119 states that:

"The presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."

The proposal is not being considered, planned or determined under the Birds or Habitats Directives.

In the submission of the application, the applicant has provided an 'ecology and landscaping statement'. Whilst this refers to the applicants having access to the ecological surveys and reports completed as part of the Olympic Legacy project, little specific information is provided in respect of the application site.

However, the site of the proposed buildings is largely comprised of disused hardstanding, the ecological value of which is considered negligible. Provision of the buildings and adjacent parking

area is not therefore considered likely to have a significant adverse impact on ecological interests of value.

Furthermore the scheme offers the opportunity to maintaining and enhancing existing planting on the site and by the introduction of new habitats in the form of 'bug hotels' and bird boxes. It is considered that the introduction of these features will adequately mitigate any adverse impact created by the proposed development.

Concern was also initially raised that the introduction of lighting into this area could disturb local wildlife, however the applicants have advised that any lighting provided would be low level and only utilised in the winter during the hours of 7am-8am and from 3.30pm-6.30pm for safeguarding and security purposes. The nursery will close by 6pm and the lights would be switched off. There would therefore be no light pollution during the latter part of the evening.

It is considered that the use of lighting could be adequately controlled by conditions attached to any grant of consent and as such no objection is raised to the proposal on this basis.

(iii)(a) Trees

Policy EC22 states that in schemes for new development, existing trees, hedgerows and woods shall be retained wherever possible. Where development takes place, loss of existing tree cover and hedgerows shall be kept to a minimum. All trees and shrubs to be retained after development shall be suitably protected throughout the duration of construction.

Policy EC23 states that encouragement will be given to the planting of native trees and shrubs in appropriate cases, in order to improve the physical environment.

These policies are considered consistent with the provisions of the NPPF.

The proposal site currently supports a variety of trees and hedging. This serves to partially screen the site. The applicant has stated that there is no intention to remove any of the existing planting and that additional planting will be provided both to screen the proposed fencing around the site and provide the opportunity for improved habitat.

Further details of such planting and the protection of retained trees can be achieved via the imposition of a condition on the grant of any consent.

(iv) The impact upon sites of historic or archaeological importance

Policy EC38 of the Adopted Local Plan is concerned with archaeological sites and monuments. It states that where important archaeological sites and monuments, both scheduled and unscheduled, and their settings are affected by a proposed development, preservation in situ will be sought.

It further states that if there is evidence that archaeological remains exist, the extent and importance of which is unknown, the Council will require developers to arrange for an archaeological field assessment to be carried out before the planning application can be determined in order to inform the planning decision. Where preservation is not possible or feasible

then the Council will not allow development to take place until satisfactory provision has been made for a programme of archaeological investigation and recording prior to the commencement of the development.

Policy EC34 of the Adopted Local Plan is concerned with the setting of Listed Buildings. It states that consent will not be granted for new development which would have an adverse effect on the setting of a Listed Building.

The proposal site is in close proximity to a Scheduled Ancient Monument in the form of the WWII Heavy Artillery Gun Emplacements at Adders Hill and the associated buildings as well as the Grade 1 Listed Building, Hadleigh Castle. A Roman Fort is located some 710m east of the site.

The Locally Listed Sayers Farm House is located some 125m to the south-east of the site.

In determining any application for the proposed use and development the key issues to be considered are:

- ☐ The risk of potential adverse effects on the Scheduled Monument/Locally Listed Building
- ☐ The risk of potential adverse effects on the setting of Hadleigh Castle and
- ☐ The risk of potential adverse effects on the currently unknown archaeological remains within the footprint of the proposed development.

From an assessment of the information submitted to date it is considered that the proposed development will be adequately isolated from the identified surface heritage assets to avoid any adverse impact.

The applicant identifies that drainage is already available to the site but that In order to provide electricity and water supply to the cabin, a small trench will need to be dug into the existing hardstanding for installation of the running water and electric cable along the back of the wooden cabin, connecting to the utilities within the existing toilet block.

The applicant suggests that a small trench some 6m in length with a depth of 600mm would be required to facilitate this provision and suggests that as this area is already hardsurfaced the proposal will have no impact on the archaeology of the area.

Unfortunately no evidence to support this supposition has been provided and it is not therefore possible to determine whether such works would have an adverse impact on archaeology.

The works proposed are however quite limited in extent and it is considered that a condition could be imposed on the grant of any consent requiring a watching brief to be maintained during the construction works and establishing an appropriate plan of action in the event of archaeological remains being identified.

Subject to such a condition, no objection is raised to the proposal on the basis of impact on heritage assets.

(v) The impact upon agriculture

The site is currently hard surfaced in part and used for recreational purposes. It has no agricultural use and the proposed development therefore has no agricultural implications.

No objection is therefore raised to the proposal on this basis,

(vi) The impact upon the enjoyment of other users of the countryside

The proposal site represents a very small proportion of the Country Park. It is not considered that loss of access to this part of the Country Park by the public as a result of development, would significantly adversely impact on the enjoyment of the Country Park by others.

No objection is therefore raised to the proposal on this basis,

(vii) The impact upon residential amenity.

Comment has previously been made in respect of the use of artificial lighting on the proposed site in terms of its potential impact on wildlife. However the use of lighting in naturally dark areas can also have an adverse impact on the amenity of adjoining residents and indeed other park users. The applicant's operation of the site and the opportunity to impose conditions on the use and form of lighting is considered to adequately mitigate the impact on adjoining residents and no objection is therefore raised to the proposal on this basis.

Given the nature of the proposed use and the relative isolation from adjoining residential properties it is not considered that the kindergarten would give rise to undue noise and disturbance, sufficient to adversely impact on the amenity of adjoining residents.

However, the potential does exist for the proposed building to be used for other activities such as parties and other social gatherings, which could extend activity on the site into the evening and could consequently have an adverse impact on the amenity of local residents and wildlife. It is therefore considered appropriate to impose a condition on the grant of any consent prohibiting such uses after the normal operational hours of the kindergarten/nursery, without the former consent of the Plannign Authority

(viii) Flood Risk

The site is located within Flood Zone 1 and is not therefore at risk from flooding from either tidal or pluvial sources.

Ordinarily, consideration would need to be given to the potential for the development of a site to increase surface water run-off and the potential for off-site flooding.

In this instance however it must be recognised that the site is entirely hard surfaced and that the placement of a building on the existing hard surface will not result in additional runoff. Whilst the buildings may create a different pattern of runoff, the site is considered sufficiently isolated and adequately positioned adjacent to vegetated areas, to avoid any alteration in the pattern of runoff creating a risk to adjoining landowners.

No objection is therefore raised the proposal on the basis of flood risk.

(ix) The adequacy of car parking provision and accessibility

The 2009 adopted parking standards identify a specific parking standard for Crèche and child care facilities. Under this standard the scheme would attract a requirement for 1 space for each full time equivalent staff member plus drop off and pick up facilities. The applicant identifies that four full time equivalent staff would attend the site.

The scheme provides five spaces and a significant drop off facility which is considered adequate to serve the needs of parent depositing and collecting children. No objection is therefore raised the proposal on the basis of car parking provision.

(x) Refuse Collection

The scheme seeks to provide a refuse storage facility adjacent to the main entrance to the school area. Whilst appropriate in terms of location and appearance, the provision is somewhat limited and does not appear to make provision for both recyclable and non-recyclable waste. The Council's Waste and Recycling Officer has advised that 2x 1100 litre bins and 2x 240 litre bins, within a structure tall enough to allow the bins to be opened and large enough to allow all bins to be able to be removed individually, without the need to remove other bins, should be provided. This provision can be accommodated on the site and can be achieved by condition.

(xi) Pollution Control

Policy EC4 of the Adopted Local Plan is concerned with pollution and states that development which would have a significant adverse effect on health, the natural environment, or general amenity by reason of releases of pollutants to water, land or air, or by reason of noise, dust, vibration, light or heat, will be refused.

The applicant has identified that electricity and water supply will be ceded from the adjoining toilet block which will be refurbished for use by both the pre-school and the public.

It is not considered that this arrangement will give rise to concerns over pollution and subject to conditions to control lighting as previously discussed, no objection is raised to the proposal under Policy EC4.

(xii) Security

At the present time the site is fully accessible to any person using the Country Park.

The provision of a kindergarten on the site will inevitably restrict access to this area of the site, however in the context of the wider site, the loss of the proposal site from general access is not considered likely to have a significant adverse impact on the enjoyment of the park by other users.

Concern was initially raised in respect of the security of the site. The proposal site is relatively isolated from areas of activity within the Hub located to the east of the site. However, the applicant has advised that it is intended to erect a 1.8m fence around the area occupied by the school building which will be screened with additional dogwood planting, consistent with the hedging that already exists on parts of the boundary. Subject the appropriate provision and maintenance of such hedging it is not considered that the provision of a close boarded fence around the site would have a significant adverse impact on the character and appearance of the area and as such no objection is raised to this element of the proposal.

(xiii) Advertising

The applicant identifies that a pole exists adjacent to the site which may be used for advertising purposes. The applicant is aware that the provision of an advertisement will require the separate and specific consent of this Authority and an application is anticipated due course.

The granting of advertisement consent cannot however be assumed.

Conclusion

The proposed development is prima facie, inconsistent with the presumption against inappropriate development in the Green Belt, however, it is considered that the provision of a 'forest kindergarten' will, if appropriately controlled, complement the built facilities present on the wider site and would be consistent with the Government's encouragement of Planning Authorities to plan positively to enhance the beneficial use of the Green Belt and provide access to high quality open spaces and opportunities for sport and recreation in order to make a contribution to the health and well-being of communities as well as enhancing the range of educational opportunities available.

It is considered that this range of factors represent the very special circumstances required to outweigh the identified harm to the openness of the Green Belt.

No objection is therefore raised to the principle of the proposed development in the context of Green Belt or recreational policies.

Subject to the imposition of appropriate conditions the proposal is considered unlikely to have a significant adverse impact on amenity, landscape or the ecological quality of the surrounding area or the setting of any adjoining Heritage Assets, and the need for a watching brief is considered appropriate and adequate to ensure the protection of any unknown archaeological deposits below the site.

I have taken all other matters raised by interested parties into consideration but none are sufficient to outweigh the considerations that led to the following:

My Recommendation is Approval with the following conditions

1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

REASON: This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2 Prior to the first use of the development hereby approved, full details of the proposed lighting scheme, including location, height of poles, appropriate shielding and level of lumens, shall be submitted to, and approved by, the Local Planning Authority. Such scheme as is approved shall be fully implemented prior to occupation of the proposed development and thereafter permanently maintained as such.

REASON: In order to ensure that illumination of the site has no adverse impact of the ecology of the surrounding area or amenity of nearby residents, in accordance with the provisions of Policies EC5 and EC13 of the adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.

3 Any external lighting installed on the site, with the exception of any motion sensitive security lighting, shall only be operated between the hours of 07:00 and 08:00 and 15:30 and 18:30 only and at no other time, without the former consent of the Local Planning Authority.

REASON: In order to ensure that illumination of the site has no adverse impact of the ecology of the surrounding area or amenity of nearby residents, in accordance with the provisions of Policies EC5 and EC13 of the adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.

4 Prior to the commencement of the development (including any site clearance works) all trees and shrubs (including hedges) as identified on the northern boundary of the site, must be protected by fencing in accordance with the provisions of BS5837:2012. No materials are to be stored or temporary buildings erected inside this fence. No changes in ground levels may be made within the crown spread of any tree or within 1m of any hedge or shrub within the identified areas. Such protection measures shall be retained for the duration of the construction of the development.

REASON: In the interest of the future health and amenity value of the trees/shrubs/hedges.

5 Prior to the first occupation of the development hereby approved a landscaping/tree planting scheme shall be submitted to and formally approved by the Local Planning Authority. Such a scheme shall include full details of all proposed tree planting, including species, size, density, methodology and the proposed times of planting and planting plans, written specifications, including cultivation and other operations associated with plant and grass establishment, schedules of plants, noting species, plant sizes and proposed numbers / densities.

REASON: To ensure a satisfactory development incorporating a degree of natural relief, in the interests of the amenities of the site and the surrounding area.

6 No works shall be begun on the excavation of the trench to accommodate the electricity and water supply to the proposed building until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority and the works shall be undertaken in accordance with the approved details.

REASON: In order to ensure the preservation of the historic record if present on the site, in accordance with Policy EC38 of the adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.

7 Prior to the first use of the development hereby approved, details of a fully enclosed and roofed bin store, tall enough to allow the bins to be opened and large enough to allow all bins to be removed individually, without the need to remove other bins and capable of accommodating 2 x

1100 litre bins and 2 x 240 litre bins, shall be submitted to and approved by the Local Planning Authority.

REASON: In order to ensure appropriate provision of refuse and recycling facilities, sufficient to serve the needs of the proposed development.

8 Pursuant to condition 7, the proposed bin store shall be provided on site prior to the first occupation of the proposed development and thereafter permanently retained as such.

REASON: In order to ensure appropriate provision of refuse and recycling facilities, sufficient to serve the needs of the proposed development.

9 The proposed building shall be used as a day nursery/pre-school facility and for no other purpose without the former consent of the Local Planning Authority.

REASON: In the interests of preserving the interests of wildlife and the amenity of adjoining residents and other park users in accordance with policies EC3, EC13 and RE8 of the adopted Local Plan.

10 The proposed building shall be used between the hours of 06:30 and 18:30 and at no other times without the formal consent of the Local Planning Authority.

REASON: In the interests of preserving the interests of wildlife and the amenity of adjoining residents and other park users in accordance with policies EC3, EC13 and RE8 of the adopted Local Plan.

11 Prior to the first operation of the proposed development a bird box and a bug hotel shall be provided on the site, details of which shall be submitted to and approved by the Local Planning Authority.

REASON: In the interests of the enhancement of the biodiversity of the site, in accordance with policy EC13 of the adopted Guidance and Government advice as contained in the National Planning Policy Framework.

Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 Please note that a site notice was displayed in a publicly visible location at the site. Castle Point Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

